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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,611	06/25/2003	Markus Schmitz	32368-189121	2478
26694	7590	03/05/2004		
VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP P.O. BOX 34385 WASHINGTON, DC 20043-9998			EXAMINER WELCH, GARY L	
			ART UNIT	PAPER NUMBER

3765

DATE MAILED: 03/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary****Application No.**

10/602,611

**Applicant(s)**

SCHMITZ, MARKUS

**Examiner**

Gary L. Welch

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 12 and 13 is/are rejected.
- 7) ☒ Claim(s) 7 and 9-11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>25 June 2003</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to because page 6, line 18 of the specification references a Figure 3c. However, there does not appear to be a Figure 3c in the application. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 8, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Temburg (U.S. 5,031,279).

Temburg discloses a device on a spinning preparatory machine having at least one separating blade 7 that is associated with a roller 3 and cooperates with a fixed-position counter element 22 to define a separation opening 24 for impurities. The separating blade 7 is arranged on a support 5 that is displaceable substantially parallel to the periphery of the roller for adjusting the distance between the separating blade and the fixed-position counter-element (Col. 3, lines 26-34). The device further comprises an extraction chamber 9 that is mounted to the support 5 and cooperates with a guide element 15. The guide

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element 15 is arranged to be in a fixed position during operation of the machine and able to guide separated impurities and air into the opening of the extraction chamber.

With regard to claim 2, the invention is disclosed above.

With regard to claim 3, the counter element 22 is in a fixed position and defines with the guide element 15 an opening that is constant size during operation.

With regard to claim 4, the size of the opening can be adjusted (Figure 5).

With regard to claim 5, the guide element 15 has a curved surface (Figure 5).

With regard to claim 6, the guide element 15 has a free end that is in cooperation with the extraction chamber 9.

With regard to claim 8, the extraction chamber 9 has a guiding member (i.e., it's curved wall) which cooperates with the guide element.

With regard to claim 12, the extraction chamber 9 has a counter-surface (i.e., its curved wall) that cooperates with the guide element 15 so as to define an air intake opening in communication with an inlet in the extraction device 9 for receiving waste from the separation opening.

With regard to claim 13, the guide element 15 is stationary at least during operation of the machine.

4. Claims 7 and 9-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


**Conclusion**

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Leifeld et al. '688, Pezzoli et al. '726, Marzoli et al. '571, Leifeld '268, Marx '235, Loeffler '994 and Waeber et al. '166 disclose various spinning preparatory machines that removes impurities from clothed cylinders having adjustable separating blades.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary L. Welch whose telephone number is (703) 305-0451. The examiner can normally be reached on Mon-Fri 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Gary L. Welch  
Primary Examiner  
Art Unit 3765

glw